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5  
6 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 LUIGI J. MONTES,

11 Defendant.  
12

Case No. 23-cr-00002-RFB-VCf

Stipulation to Continue Sentencing  
(Second Request)

13 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson  
14 United States Attorney for the District of Nevada, and Jim Fang, Assistant United States Attorney,  
15 and F. Andino Reynal, counsel for Defendant Luigi Montes, that the sentencing hearing currently  
16 scheduled for September 15, 2023, at 9:00 a.m. (ECF No. 124) is continued for no sooner than 60  
17 days, to a date and time convenient to this Court. This stipulation is made and based upon the  
18 following:

- 19
- 20 1. Mr. Montes entered a change of plea on February 16, 2023, pleading guilty to Count One  
21 of the Criminal Information, Conspiracy to Commit Mail Fraud in violation of 18 U.S.C.  
22 §1341. ECF Nos. 102.
  - 23 2. Sentencing is currently scheduled for September 15, 2023, at 9:00 a.m., ECF No. 124.
  - 24 3. Probation released its draft PSR on April 25, 2023. Defense counsel is working closely  
with the government to prepare for the upcoming sentencing, but is still in the process of

obtaining various documentation relevant to Mr. Montes' sentencing memorandum and hearing.

4. Mr. Montes is on release and does not oppose the continuance request.

5. This is the third request for a continuance of the sentencing hearing.

6. The additional time requested herein is sought in good faith and not for purposes of delay.

7. The additional time requested by this stipulation is reasonable pursuant to Fed. R. Crim. P. 32(b)(2), which states that the "court may, for good cause, change any time limits prescribed [for sentencing] in this rule." Furthermore, a delay in sentencing does not implicate or undermine the defendant's speedy trial rights under the United States Constitution, which terminated upon conviction. *See Betterman v. Montana*, 136 S.Ct. 1609, 1617-18 (2016).

8. Denial of this request for continuance would deny counsel for Mr. Montes sufficient time to effectively and thoroughly prepare for sentencing, taking into account due diligence.

Accordingly, a denial of this request for continuance could result in a miscarriage of justice.

DATED this 5th day of September, 2023.

/s/ Jim Fang.  
Assistant U.S. Attorney  
Counsel for the United States

/s/ F. Andino Reynal  
F. Andino Reynal, ESQ.  
Counsel for Defendant Montes

# CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that on the 5th day of September, 2023, a copy of this motion was served on all counsel of record by the Court's ECF service.

/s/ F. Andino Reynal

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIGI J. MONTES,

Defendant.

Case No. 23-cr-00002-RFB-VCF

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the pending stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Mr. Montes entered a change of plea on February 16, 2023, pleading guilty to Count One of the Criminal Information, Conspiracy to Commit Mail Fraud in violation of 18 U.S.C. § 1341. ECF Nos. 102, 103.
2. Sentencing is currently scheduled for September 15, 2023, at 9:00 a.m. ECF No. 124.
3. Defense counsel is in the process of obtaining various documentation relevant to Mr. Montes' sentencing memorandum and hearing.
4. Mr. Montes is on release and does not oppose the continuance request.
5. This is the third request for a continuance of the sentencing hearing.
6. The additional time requested herein is sought in good faith and not for purposes of delay.

- 1       7. The additional time requested by this stipulation is reasonable pursuant to Fed. R. Crim. P.  
2       32(b)(2), which states that the "court may, for good cause, change any time limits  
3       prescribed [for sentencing] in this rule." Furthermore, a delay in sentencing does not  
4       implicate or undermine the defendant's speedy trial rights under the United States  
5       Constitution, which terminated upon conviction. *See Betterman v. Montana*, 136 S.Ct.  
6       1609, 1617-18 (2016).
- 7       8. Denial of this request for continuance would deny counsel for Mr. Montes sufficient time  
8       to effectively and thoroughly prepare for sentencing, taking into account due diligence.  
9       Accordingly, a denial of this request for continuance could result in a miscarriage of justice.

ORDER

Based upon the stipulation of the parties, and good cause appearing, it is hereby ORDERED that Mr. Montes' sentencing hearing currently scheduled September 15, 2023, at 9:00 a.m., be VACATED.

IT IS FURTHER ORDERED that the sentencing hearing is reset for **November 16, 2023 at 8:30 a.m.**

DATED: September 6, 2023

A handwritten signature in black ink, appearing to be 'RFB' with a stylized flourish.

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THE HONORABLE RICHARD F. BOULWARE  
UNITED STATES DISTRICT JUDGE